

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE ENROLLED ACT No. 1138

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-33-12-6.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2002]: **Sec. 6.2. (a) This section applies only to a county that has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).**

(b) Notwithstanding any other law, the treasurer of state shall:

(1) reduce any funds to which the county convention and visitors bureau and promotion fund would otherwise be entitled under this article by an amount equal to ten percent (10%); and

(2) transfer, on a quarterly basis, the amount of the reduction to the northwest Indiana law enforcement training center.

(c) Money transferred under subsection (b)(2) may be used only to operate the northwest Indiana law enforcement training center.

SECTION 2. IC 6-1.1-21-10, AS AMENDED BY SEA 357-2002, SECTION 201, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) There is established a property tax replacement fund board to consist of the commissioner of the department, the commissioner of the department of local government finance, the director of the budget agency, and two (2) ex officio nonvoting representatives of the general assembly of the state of Indiana. The speaker of the house of representatives shall appoint**



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one (1) member of the house as one (1) of the ex officio nonvoting representatives, and the president pro tempore of the senate shall appoint one (1) senator as the other ex officio nonvoting representative, each to serve at the will of the appointing officer. The commissioner of the department shall be the chairman of the board, and the director of the budget agency shall be the secretary of the board.

(b) The board may, upon a vote of a majority of the members of the board, increase the percentage of property tax replacement funds to be distributed from the property tax replacement fund to the several counties for credit to the taxpayers in the counties as provided in this chapter if in the judgment of the board there are surplus funds available in the fund for the increased distribution. The board shall make such a determination on or before March 1 of each year relative to the amounts to be distributed from the property tax replacement fund for that year. Upon such a determination the commissioner of the department of state revenue shall immediately notify the treasurers of the several counties of the increased distribution.

(c) **Except as provided in section 10.5 of this chapter**, the schedule to be used in making distributions to county treasurers during the periods set forth in section 4(b) of this chapter is as follows:

January	0.00%
February	0.00%
March	16.70%
April	16.70%
May	16.60%
June	0.00%
July	0.00%
August	0.00%
September	16.70%
October	16.70%
November	16.60%
December	0.00%

The board may authorize the department to distribute the estimated distributions to counties earlier than what is required under section 4(b) of this chapter.

(d) The board is also authorized to transfer funds from the property tax replacement fund for the purpose of providing financial aid to school corporations as provided in IC 21-3.

SECTION 3. IC 6-1.1-21-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) For estimated distributions payable before July 1, 2004, the board may authorize**

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the department to distribute the estimated distributions under section 10(c) of this chapter to one (1) or more counties or to all counties earlier than what is required under section 4(b) or 10(c) of this chapter. The board may authorize the advance of an estimated distribution at any time during the calendar year in which the estimated distribution would otherwise be made. The board shall issue guidelines governing the application process for counties that apply for an advance of an estimated distribution under this subsection.

(b) This section expires July 1, 2004.

SECTION 4. IC 6-9-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having ~~thirteen (13)~~ **fifteen (15)** members is created to promote the development and growth of the convention, tourism, and visitor industry in the county.

(c) The executives (as defined by IC 36-1-2-5) of the ~~six (6)~~ **eight (8)** largest municipalities (as defined by IC 36-1-2-11) in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.

(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.

(f) The lieutenant governor shall appoint one (1) member to the bureau.

(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office. No appointee under this section may hold an elected or appointed political office while he serves on the bureau.

(h) In making appointments under this section, the appointing

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authority shall give sole consideration to individuals who shall be knowledgeable and interested in at least one (1) of the following businesses in the county:

- (1) Hotel.
- (2) Motel.
- (3) Restaurant.
- (4) Travel.
- (5) Transportation.
- (6) Convention.
- (7) Trade show.

(i) All terms of office of bureau members begin on July 1. Initial appointments of the county council are for one (1) year terms, initial appointments of the county commissioners are for two (2) year terms, initial appointments of the municipal executives and legislative bodies are for three (3) year terms, with all subsequent appointments for three (3) year terms. All appointments of the lieutenant governor are for three (3) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection (f) shall appoint a qualified person.

(j) A member of the bureau may be removed for cause by his appointing authority.

(k) Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(l) Each bureau member, before entering his duties, shall take an oath of office in the usual form, to be endorsed upon his certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(m) The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

(n) If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7. In the absence of such an agreement, the bureau may

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not expend funds to promote activities in any other county.

SECTION 5. IC 8-1-2-103, AS AMENDED BY SEA 399-2002, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 103. (a) No public utility, or agent or officer thereof, or officer of any municipality constituting a public utility, as defined in this chapter, may charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered, or for any service in connection therewith, than that prescribed in the published schedules or tariffs then in force or established as provided herein, or than it charges, demands, collects, or receives from any other person for a like and contemporaneous service. A person who recklessly violates this subsection commits a Class A misdemeanor.

(b) Notwithstanding subsection (a), if a city of less than twenty thousand (20,000) in population according to the most recent federal decennial census, constituting a public water utility, and acting as a public utility prior to May 1, 1913, either as such city, or by any commercial association, chamber of commerce, or committee with the consent of such city, entered into any agreement with any person engaged in manufacturing any articles of commerce to furnish free water for a certain limited time as an inducement to such person so engaged in manufacturing to locate the establishment or manufacturing plant of such person within such city, such city may carry out such agreement to furnish free water to such person for the period of time remaining, as stipulated in such contract. This chapter does not prohibit any public utility from supplying or furnishing free service or service at special rates to any municipality, or any institution or agency of such municipality, in cases where the supplying or furnishing of such free service or service at special rates is stipulated in any provision of the franchise under which such public utility was operating before May 16, 1919, or, in the event that such franchise shall have been surrendered, from supplying or furnishing such free service or service at special rates until such time as the franchise would have expired had it not been surrendered under this chapter; and it shall be the duty of any utility operating under any franchise, stipulating for free service or service at special rates to municipality, or any institution or agency of such municipality, to furnish such free service or service at special rates.

(c) This subsection applies to a public utility that provides water for public fire protection services in both a county containing a consolidated city and in portions of counties that are adjacent to the county containing a consolidated city. This subsection applies

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throughout the territory served by the public utility. In the case of a public utility furnishing water and beginning on January 1, 1994, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of the customers of the public utility. However, the construction cost of any fire hydrant installed after December 31, 1993, at the request of a municipality, township, county, or other governmental unit shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by this section shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

- (1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed after December 31, 1993; and
- (2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:
 - (A) the revenues lost from the elimination of such fire protection charges; divided by
 - (B) the current number of equivalent five-eighths (5/8) inch meters.

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the public utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective January 1, 1994.

(d) This subsection applies to a public utility or a municipally owned water utility that is not subject to subsection (c). Except as provided in subsection (e), in the case of a public utility or municipally owned water utility furnishing water, if the governing body of ~~the governmental unit with the greatest number of customers~~ **any municipality within the service area** of the utility adopts an ordinance providing that costs shall be recovered under this subsection, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of all customers of the utility **within the municipality**. However, on or after a date specified in the ordinance, the construction cost of any fire hydrant installed at the request of a municipality, township, county, or other governmental unit that adopts an ordinance under this subsection shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The

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change in the recovery of current revenue authorized by the ordinance shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

- (1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed on and after the date specified in the ordinance; and
- (2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:
 - (A) the revenues lost from the elimination of such fire protection charges; divided by
 - (B) the current number of equivalent five-eighths (5/8) inch meters.

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective on a date specified in the ordinance.

(e) This subsection applies to a municipally owned water utility in a city having a population of more than fifty thousand (50,000) but less than fifty-five thousand (55,000). The city may adopt a plan to recover costs as described in subsection (d) without passing an ordinance, if the plan applies only to customers of the utility residing in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). If the city wishes to adopt such a plan, the city shall file a new schedule of rates with the commission, but is not subject to commission approval of the rates.

(f) In the case of a change in the method of recovering public fire protection costs under an ordinance adopted under subsection (d):

- (1) on or after July 1, 1997, a customer of the utility located outside the limits of a municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) must be excluded from the increase in rates attributable to the change and must not be included in the number of equivalent five-eighths (5/8) inch meters for purposes of subsection (d)(2)(B); or
- (2) before July 1, 1997, the commission may:
 - (A) in the context of a general rate proceeding initiated by the utility; or

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(B) upon petition of:

- (i) the utility;
- (ii) the governmental unit that passed the ordinance; or
- (iii) an affected customer;

prospectively exclude public fire protection costs from the rates charged to customers located outside the limits of any municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) if the commission authorizes a simultaneous increase in the rates of the utility's other customers to the extent necessary to prevent a loss of revenues to the utility.

An increase in the rates of the utility's other customers under subdivision (2) may not be construed to be a general increase in basic rates and charges of the utility and is not subject to the hearing requirements applicable to general rate proceedings. This subsection does not prohibit the commission from adopting different methods of public fire protection cost recovery for unincorporated areas after notice and hearing within the context of a general rate proceeding or other appropriate proceeding.

SECTION 6. IC 8-1.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

- (1) proceeds of special taxing district bonds of the storm water district;
- (2) the assumption of liability incurred to construct the storm water system being acquired;
- (3) service rates;
- (4) revenue bonds; or
- (5) any other available funds.

(b) The board, after approval by the legislative body of the municipality, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

SECTION 7. IC 14-22-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A person may not hunt or take a migratory waterfowl within Indiana without having a

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migratory waterfowl stamp issued by the department. The stamp must be in the possession of each person hunting or taking a migratory waterfowl. However, the stamp need not be affixed to the hunting license. The licensee shall validate the stamp with the signature, in ink, of the licensee written across the face of the stamp.

(b) The department shall ~~do the following~~

(1) determine the form of the **migratory waterfowl** stamp.

(2) ~~(c) The department may~~ furnish the **migratory waterfowl** stamps to each clerk of the circuit court and the clerk's designated depositories for issuance or sale in the same manner as hunting licenses are issued or sold under IC 14-22-11.

SECTION 8. IC 14-22-11-3, AS AMENDED BY P.L.188-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The director ~~and agents appointed by the director and a clerk of the circuit court in each county who is an~~ **are** authorized ~~representative~~ **representatives** of the department shall issue ~~all~~ hunting, trapping, and fishing licenses.

(b) The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses.

(c) Each **hunting, trapping, or fishing** license must be in a form prescribed by the director and shall be countersigned by the clerk or agent issuing the license. The director shall furnish the clerks and agents with all necessary blank forms.

SECTION 9. IC 36-4-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. If the city legislative body does not pass the ordinances required by section 7 of this chapter on or before: ~~the first Monday in September of any year,~~

(1) September 20 for a third class city; and

(2) September 30 for a second class city;

of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 10. IC 36-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A department of public parks is established as an executive department of the city.

(b) The department is under the control of a board of park commissioners. The board consists of four (4) commissioners appointed by the city executive. Each commissioner must be a freeholder residing in the city, and no more than two (2) commissioners may have the same political affiliation.

(c) A second class city may ~~with the approval of the executive and legislative body,~~ pay each commissioner an annual salary ~~not to exceed six hundred dollars (\$600):~~ **in an amount fixed by the fiscal body.**

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The commissioners shall be paid their actual expenses upon approval by the city executive.

(d) Before beginning his duties each commissioner shall take and subscribe the usual oath of office. The oath shall be indorsed upon the certificate of appointment and filed with the city clerk. If a commissioner has not filed his oath:

- (1) within thirty (30) days after the beginning of his term; or
- (2) by the date of his appointment if he was appointed after the beginning of the term;

he is considered to have refused to serve and the office becomes vacant.

SECTION 11. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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